WORKERS' COMPENSATION RATE FILINGS
OUTLINE OF CONTENTS

I. Rate Filings

A. General

Chapter 152: Section 53A. Classification of risks and premiums; distribution of premiums among employers.

Who May Insure

Any insurance company authorized to transact business in this Commonwealth under subclause (b) or (e) of 6th clause of MGL c. 175, s. 47 may, except as provided in clause (c) of MGL c. 175, s. 54, insure the payment of the compensation provided for by this chapter.

Filing Requirements

When any company insures payment of compensation under this chapter, it shall file with the Commissioner, or, if it is a member of or subscriber to a rating organization under section 52C, authorize such rating organization to file with the Commissioner on its behalf, its classification of risks and premiums relating thereto and subsequent proposed classifications of premiums.

Time for Filing

______The classifications of risks and premiums shall be filed at least every 2 years and on any additional date that the Commissioner may designate.

Mandatory Hearing

Within 60 days after any filing the Commissioner shall conduct a hearing to determine whether the classifications and rates are not excessive, inadequate or unfairly discriminatory for the risks to which they respectively apply and that they fall within a range of reasonableness.

Additional Information to Support Filing

When a filing is not accompanied by the information upon which the insurer supports such filing, and the Commissioner does not have sufficient information to determine whether such filing meets the requirements of this section, she may require such insurer to furnish the information upon which it supports such filing.

______Any filing may be supported by the experience or judgment of the insurer or rating organization making the filing, the experience of other insurers or rating organizations, and any other factors, which the insurer or rating organization deems relevant.

Approval / Disapproval/ Refiling

No proposed classifications or premiums shall take effect until approved by the Commissioner as not excessive, inadequate, or unfairly discriminatory for the risks to which they respectively apply, and as within a range of reasonableness.

If the Commissioner does not either approve or disapprove proposed classifications or premiums within 6 months after a filing made pursuant to subsection (2), such classifications and premiums shall be deemed approved and shall be immediately effective.

If said Commissioner disapproves proposed premiums and classifications, stating her reasons for disapproval, any insurance company or rating organization may file new proposed classifications and premiums.

Deviations

______Any insurance company may make written application to the Commissioner for permission to use, in place of premium rates approved, a percentage decrease from said premium rates, which shall be uniform within any classification of risk in the Commonwealth.

The Commissioner shall issue an order permitting the decrease for such insurance company unless she finds that the resulting premium would be inadequate or unfairly discriminatory.

B. Guidelines for Workers' Compensation Rate Deviation Filings Filed by WCRB Members for Rates Effective September 1, 2003

1. Contents of Filings

The authority for companies to make downward deviations in rates is provided in M.G.L. Chapter 152, Section 53A, Subsection (9):

> Any insurance company may make written application to the commissioner of insurance for permission to use, in place of premium rates approved pursuant to subsections (7) and (8), a percentage decrease from said premium rates which shall be uniform within any classification of risk in the commonwealth. The commissioner shall issue an order permitting the decrease for such insurance company unless he finds that the resulting premium would be inadequate or unfairly discriminatory.

In light of this statute, individual company workers' compensation new or renewal rate deviation filings are requested to include the following elements:

1. A demonstration that the filed rate deviation would not produce unfairly discriminatory rates. Company groups must include the objective underwriting criteria used for each particular company within the group.

2. A demonstration that such rate deviation will not threaten the filer's solvency.

3. An estimate of the annual net premium to be written on an after-deviation basis by the filing company and the latest available three policy years of Massachusetts voluntary workers' compensation loss, expense, and premium experience.

4. A description of how the filed deviation will be applied to the current rates, rating values, programs, and procedures.

Members of the WCRB that are requesting a deviation more negative than -15% for any class of risk, must also submit the following additional material:

5. An actuarial justification demonstrating that such a rate deviation will not result in inadequate premiums and a signed certification by an associate or fellow of the Casualty Actuarial Society indicating that he

or she has reviewed the material submitted to the Division; that this material is true and accurate to the best of his or her knowledge, information, and belief; and that it is his or her opinion that the premiums resulting from the proposed deviation will be adequate and not unfairly discriminatory, and will not threaten the solvency of the company.

2. PLANS SUBJECT TO REVIEW UNDER THE DEVIATION STATUTE

Please note that companies should be aware that the Division regards certain rating plans, including some plans referred to as "dividend plans," "retention plans," "installment plans," "retrospective rating plans," or "deferred payment plans," as operating, at least in part, as rate deviations, and as therefore being subject to prior approval by the Division. *In particular, any program guaranteeing or otherwise promising premium reductions at any time, and any program allowing for the return of, or reduction in, premium during the policy period, is viewed by the Division as a rate deviation, that must be submitted for approval prior to use.* Furthermore, premium installment plans with terms allowing for the payment of any installment after the end of the policy period will also be considered deviations. Unless otherwise permitted by the Division in writing, retrospective rating plans must be in compliance with the Retrospective Rating Plan Manual and must use rating factors approved by the Commissioner.

Please note that, pursuant to M.G.L. Chapter 152, Section 65, DIA assessments must be based on *standard premium* (prior to the application of any ARAP surcharge). Therefore, no deviation or schedule credit program will be approved that allows for any reduction in this assessment. In addition, all deviations or scheduled credits to premium shall be off Bureau manual rates, prior to the application of experience rating, merit rating, ARAP surcharges, construction credits, deductible credits, or premium discounts.

Schedule rating-type plans are allowed only pursuant to the above-quoted deviation statute and these guidelines, and are subject to prior approval by the Division. Such plans, regardless of the magnitude of the credits offered, may not provide for "upward deviations," non-uniformity of rates within any class, or unfairly discriminatory rating. They will, therefore, be approved only if:

(i) They contain no schedule debits;

(ii) They are retrospective in nature (i.e., the credits are earned *during* the relevant policy period, and not *guaranteed* at policy inception) and the insurer, subsequent to the policy period, actually determines the appropriate credit and adjusts the premium accordingly;

(iii) Each employer written in any company that is offering such a plan is, at policy inception, capable of earning the maximum credit available to any risk in that class ;

(iv) All schedule credits offered are determinable by objective criteria approved by the Division; and

(v) The company's filing for such plan provides the estimated percentage and dollar impact of the requested schedule rating plan credits This shall be accomplished by filling out the following table for the period the schedule credits are expected to be in effect.

Time Period Covered in Following Estimate of Impact:

Range of Projected Credit Percentage	Number of Policies	Earned Premium*	Average Estimated Percent Credit **	Incurred Losses ***	Loss Ratio
0%****					
-1% to –5%					
-6% to –15%					
-16% to –25%					
Bigger than –25%					
Total / Average					

* Premium is the standard earned premium at the company rate level after experience rating, deviations and **estimated** schedule credits, but before premium discount and retrospective rating.

** The average credit expected to be received by all policyholders in each "Credit Percentage" range. This should be used to calculate earned premium and loss ratios.

*** Incurred losses are the case incurred losses consisting of paid plus case reserves. Do not include incurred but not reported losses (IBNR).

**** Exclude any servicing carrier or VDAC business.

(vi) The filer has submitted a signed certification by an Associate or Fellow of the Casualty Actuarial Society indicating that he or she has reviewed the material submitted to the Division; that this material is true and accurate to the best of his or her knowledge, information, and belief; and that it is his or her opinion that, based on company-specific or other relevant information, the proposed schedule credits are actuarially justified in the sense that reductions in losses that are commensurate with the credits offered can reasonably be expected to result from the various credited activities, and that the premiums resulting from the proposed schedule rating plan will be adequate and not unfairly discriminatory, and will not threaten the solvency of the company. The filer should include all supporting documentation and analysis for the opinion of the actuary that the plan is actuarially justified.

(vii) Any insurer for whom workers' compensation schedule rating is not new in Massachusetts must include in its filing a grid that indicates how much premium volume has received the various available credits, as well as the loss ratios obtained by each group of risks. This grid must be of the following form and must include data from all policies written in the company between 12/1/99 and 3/31/02.

Actual Historical Impact of Schedule Rating Plan

Range of Actual Credit Percentage Granted	Number of Policies	Earned Premium*	Average Estimated % Cred. at Incep.**	Incurred Losses ***	Loss Ratio
0%****					
-1% to –5%					
-6% to –15%					
-16% to –25%					
Bigger than –25%					
Total / Average					

* Premium is the standard earned premium at the company rate level after experience rating, deviations and **actual** schedule credits, but before premium discount and retrospective rating.

** The average credit estimated at policy inception for all policyholders in each "Credit Percentage" range. This value may be different from the average credit actually received as specified in the left-most column above. **[NB: This differs from the 4th column in the projection grid by containing the average percentage credit actually applied to policyholder premiums prior to recalculation at audit. This percent should *not* be used to calculate earned premiums or loss ratios unless the credits actually received after audit matched those estimated at policy inception.]**

*** Incurred losses are the case incurred losses consisting of paid plus case reserves. Do not include incurred but not reported losses (IBNR).

**** Exclude any servicing carrier or VDAC business.

Failure to provide all material required by Sections A and B above in accordance with these guidelines will result, at a minimum, in delays in the processing of applications and may result in the disapproval of requested effective dates or other plan parameters.

4. SCHEDULE OF FILINGS AND EFFECTIVE DATES

To permit the orderly implementation of the rates set forth in the Commissioner's order regarding rates effective September 1, 2003, and to avoid disruption in the market, any company that is a member of the Workers' Compensation Rating and Inspection Bureau of Massachusetts ("WCRB") which had an approved deviation or schedule rating plan on August 31, 2003, may continue such deviation or schedule rating plan in effect through November 30, 2003 only by notifying the State Rating Bureau ("SRB") by letter received on or before October 31, 2003, that it wishes to continue its deviation or schedule rating plan utilizing the rates approved to be effective September 1, 2003.

Any WCRB member company continuing a deviation or schedule rating plan as set forth above through November 30, 2003, may make a new or renewal deviation or schedule rating plan filing, received by the SRB on or before October 31, 2003, which, if desired by the filer and approved by the Division, shall be effective on December 1, 2003, or any subsequent date that the company selects and the Division approves.

Any WCRB member company that is not continuing its deviation or schedule rating plan past August 31, 2003, as set forth above, or any company newly applying for a deviation or schedule rating plan, may make a new deviation or schedule rating plan filing, received by the SRB on or before October 31, 2003, which, if desired by the filer and approved by the Division, shall be effective retroactive to September 1, 2003.

No deviation or schedule rating plan filing approved to be effective on or before August 31, 2003, shall continue beyond November 30, 2003, unless the SRB has received a filing on or before October 31, 2003, to continue such deviation or schedule rating plan, and unless such filing is approved by the Division.

For new and renewal policies effective on and after September 1, 2003, WCRB member companies shall use the rates calculated in accordance with the Commissioner's order relative to such policies, applying any deviations or schedule rating plans approved in accordance with these guidelines.

NOTE: WORKERS' COMPENSATION DEVIATION AND SCHEDULE RATING FILINGS SHOULD BE SUBMITTED DIRECTLY TO THE ADDRESS PROVIDED BELOW. COMPANIES SUBMITTING FILINGS SHOULD NOT SUBMIT RATE- OR FORM-FILING FEES OR LOCK-BOX DATA SHEETS AS THEY MUST WITH OTHER WORKERS' COMPENSATION FILINGS. COMPANY GROUPS SHOULD SUBMIT NO MORE THAN ONE FILING WHICH SHOULD COVER ALL OF ITS MEMBER COMPANIES. EACH GROUP FILING MUST INCLUDE A SUMMARY DOCUMENT THAT SETS FORTH BOTH THE RATE SOUGHT FOR EACH MEMBER COMPANY AND THE OBJECTIVE ELIGIBILITY CRITERIA FOR DETERMINING WHICH RISKS WILL BE WRITTEN BY THE VARIOUS GROUP MEMBERS. COMPANIES MUST MAINTAIN DETAILED UNDERWRITING INFORMATION SUPPORTING BOTH THE PLACEMENT OF EACH INSURED INTO A PARTICULAR COMPANY AND THE APPLICATION OF ANY SCHEDULE CREDIT. COMPANIES MUST MAKE SUCH MATERIAL AVAILABLE TO THE DIVISION OF INSURANCE UPON REQUEST.

One original and two complete copies (including any accompanying documents) of each group's application for one or more workers' compensation deviation or schedule rating plans affecting workers' compensation rates, as well as a stamped, self-addressed, business-size (size 10) envelope should be submitted to Insurance Commissioner Julianne M. Bowler, directing them to the attention of:

Walter Horn, Ph.D.
State Rating Bureau
Massachusetts Division of Insurance,
One South Station, Boston, MA 02110.

211 CMR 115.00: <u>Requirements Applicable to Large Deductible Policies</u>

(1) The following features must be included in all large deductible policies:

______(a) Only those Massachusetts insureds whose workers' compensation full coverage standard premium plus ARAP would otherwise exceed $375,000 of Massachusetts premium are eligible, provided, however, that insureds with either (i) at least $50,000 of annual non-Massachusetts workers’ compensation premium or (ii) at least $10,000 of annual non-Massachusetts workers’ compensation premium and payroll in at least two states other than Massachusetts, need have only $100,000 or more in countrywide workers’ compensation premium to be eligible to be written on large deductible plans.

______(b) The policies may not provide cancellation provisions that differ in any respect from those contained in the standard Massachusetts workers' compensation policy.

______(c) A reasonable aggregate deductible limit must be included. For insureds having less than $500,000 in countrywide worker’s compensation premium, such aggregate limit may not exceed three times standard premium.

______(d) The per claim deductible shall be at least $75,000.

______(e) Rates, policy forms and deductible endorsements must be filed with and approved by the Division of Insurance. An example of an acceptable rating formula is set forth below.

<u>Example of Approvable Rating Formula for Workers’ Compensation Large Deductible Policies Pursuant to 211 CMR 115</u>

<u>Parameters</u>

Per Claim Deductible. The per claim loss, and allocated loss adjustment expense (ALAE) amount, if elected, that will be paid by the insured. This amount is agreed upon by insurer and insured and is subject to the minimum amount listed in 211 CMR 115.05(2)(d).

Aggregate Deductible. The aggregate loss, and ALAE amount, if elected, that will be paid by the insured. This amount is agreed upon by insurer and insured and is subject to the maximum amount listed in 211 CMR 115.05(2)(c).

<u>Formulas</u>

$$\text{Deductible Premium} = \left\{ \text{Per Claim Deductible Charge} + \text{Aggregate Deductible Charge} + \text{Expense Provision} + \text{Residual Market Provision} \right\} \text{X} \ \text{Adjusted Tax Multiplier} + \text{Deductible Based Taxes}$$

$$\text{Deductible Credit} = 1 - \text{Deductible Premium} / \text{Standard Premium}$$

Values

Per Claim Deductible Charge. This is the premium charge associated with the portion of losses and ALAE, if subject to the deductible, expected above the per claim deductible amount. It is equal to the excess loss factor, or excess loss and allocated expense factor, if ALAE is subject to the deductible, associated with the agreed upon per claim deductible amount, as found on the current approved Retrospective Rating Plan Manual Massachusetts Special Rating Values pages times the standard premium.

Aggregate Deductible Charge. This is the premium charge associated with the portion of losses and ALAE, if subject to the deductible, expected above the aggregate deductible amount. It is equal to the insurance charge for the entry ratio associated with the selected aggregate deductible amount, found in the state approved Retrospective Rating Plan, times the expected limited losses and ALAE, if subject to the deductible. The expected limited losses are equal to standard premium times the difference between the expected loss ratio and the excess loss factor, associated with the per claim deductible amount, found on the current approved Retrospective Rating Plan Manual Massachusetts Special Rating Values pages, or standard premium times the difference between the expected loss and allocated expense ratio and the excess loss and allocated expense factor, if ALAE is subject to the deductible, as shown below.

$$\text{Aggregate Deductible Charge} = \text{Standard Premium} \times \text{Insurance Charge} \times \left\{ \text{Expected Loss Ratio} - \text{Excess Loss Factor} \right\}$$

The entry ratio is calculated by dividing the aggregate deductible amount by the product of standard premium and the expected loss ratio, or expected loss and allocated expense ratio, if ALAE is subject to the deductible, found on the current approved Retrospective Rating Plan Manual Massachusetts Special Rating Values pages. If no aggregate deductible applies, the aggregate deductible charge should be set equal to zero.

Expense Provision. This is the premium charge that covers expenses, profit and contingencies associated with the large deductible policy. The expense provision is equal to the standard premium times the expense factor found in the Table of Expense Ratios – Excluding Taxes and Including Profit and Contingencies table in the state approved Retrospective Rating Plan. If ALAE is subject to the deductible, the expense ratio found on the Table of expense Ratios – Excluding Allocated Loss Adjustment Expense and Taxes and Including Profit and Contingencies should be referenced instead.

Residual Market Provision. This is the premium charge that covers the residual market subsidy, which is applicable to full coverage premium for large deductible policies. The residual market provision is equal to the residual market subsidy provision shown on the current approved Retrospective Rating Plan Manual Massachusetts Special Rating Values pages times standard premium.

Adjusted Tax Multiplier. The adjusted tax multiplier is applied in order to cover taxes associated with the large deductible policy. Since the residual market subsidy is separately accounted for in the calculation, the tax multiplier found on the current approved Retrospective Rating Plan Manual Massachusetts Special Rating Values pages must be adjusted to remove the assigned risk subsidy before being applied. The following formula is used to calculate the adjusted tax multiplier.

$$\text{Adjusted Tax Multiplier} = 1 \,/\, \left\{ 1 \,/\, \text{Tax Multiplier} + \text{Residual Market Subsidy} \right\}$$

Deductible Based Taxes. This is the premium charge for any premium taxes on the losses (and ALAE, if subject to the deductible) reimbursed or paid under the deductible plan. (Please contact the Department of Revenue with any questions regarding tax liabilities.) The charge is equal to the insured paid or reimbursed losses and ALAE times one minus the inverse of the adjusted tax multiplier.

$$\text{Deductible Based Taxes} = \text{Insured Paid Losses} \times \left\{ 1 - 1 \,/\, \text{Adjusted Tax Multiplier} \right\}$$

If the insurer does not include deductible losses or reimbursements in the calculation of its premium taxes, the charge for deductible based taxes should be set equal to zero. Please contact the Department of Revenue with any questions regarding tax liabilities

Standard Premium. The standard premium referred to in the large deductible calculations includes any All Risk Adjustment Program (ARAP) Surcharge.